



California Fair Political Practices Commission

June 23, 1989

Susan Roff Minasian
Butte County Counsel
1767 Filbert Avenue
Chico, CA 95926

Re: Your Request for Advice
Our File No. A-89-324

Dear Ms. Minasian:

You have requested advice regarding your duties under the conflict of interest provisions of the Political Reform Act (the "Act").¹ This letter confirms advice I provided to you in our recent telephone conversation.

QUESTION

The chief administrative officer of Butte County wishes to contract with a member of the law firm to which your husband belongs. Does this situation create a conflict-of-interest under the Act?

CONCLUSION

Since you will not have any involvement in decisions which will affect your husband's law firm, no conflict-of-interest is created under the Act. However, issues may arise under Government Code Section 1090.

FACTS

The chief administrative officer of Butte County desires to contract with a member of the law firm to which your husband belongs. You will not review the contract, approve the contract, or have any jurisdiction over monitoring performance under the

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

contract. In addition, your husband is pursuant to agreement, unable to participate in any income that would come from Butte County.

ANALYSIS

Section 87100 prohibits a public official from making, participating in, or using his or her position to influence a governmental decision in which the official knows or has reason to know he or she has a financial interest. An official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the official or a member of his or her immediate family or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103 (a)-(e).

In the present situation, your husband's law firm is a source of income to you. (Sections 87103(c) and 82030.) You also likely have an investment interest in the law firm. (Section 87103(a).) Accordingly, you may not participate in any governmental decision which will have a reasonably foreseeable material financial effect

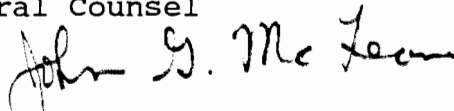
on the law firm.² You have indicated that you will not have any involvement in decisions affecting you husband's law firm.

As I indicated in our telephone conversation, we would advise that you also seek guidance regarding potential issues which may arise under Government Code Section 1090. We do not have jurisdiction over that provision of law.

If you have any further questions, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: John G. McLean
Counsel, Legal Division

KED/JGM:aa

Enclosures

² If you and your husband are 10% or greater owners of the firm, income to the firm is attributed to you on a pro-rata basis regardless of whether the income is actually received. In this way, the County of Butte might become a source of income to you. However, you would not have disqualification obligations with respect to decisions affecting Butte County because decisions affecting Butte County have a similar effect on the entire public in Butte County. (Winston Advice Letter, No. I-88-318; Hart Advice Letter, No. A-83-264; copies enclosed.)

Memorandum

To : Kathy Donovan

Date : May 25, 1989

John H. Larson, Chairman *John*

From : FAIR POLITICAL PRACTICES COMMISSION

Subject : Request for Advice from Butte County Counsel

Susan Roff Minasian, County Counsel, County of Butte, 25 County Center Drive, Oroville, CA 95965, phone (916) 538-7621, called with the following question:

The Chief Administrative Officer desires to contract with a member of the law firm to which Susan's husband belongs. Susan will not review the contract, approve the contract, or have any jurisdiction over the monitoring of thereof or any performance of it. In addition her husband is pursuant to agreement unable to participate in any income that would come from the county of Butte.

You will recall that we previously advised her on the subject of a bona fide dating relationship etc.

Her question is under the circumstances presented has she any problem involving the contract between the Chief Administrator Officer and the attorney in the firm to which her husband belongs. I told her I could see no possible conflict if she had absolutely nothing to do with the contract in anyway.

Please review and advice her orally and in writing as soon as possible.



California Fair Political Practices Commission

June 1, 1989

Susan Roff Minasian
County Counsel, County of Butte
25 County Center Drive
Oroville, CA 95965

Re: Letter No. 89-324

Dear Ms. Roff Minasian:

Your letter requesting advice under the Political Reform Act was received on May 25, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John McLean an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Scott Hallabrin for
Kathryn E. Donovan
General Counsel

KED:plh